IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE GOPALAKRISHNA TAMADA

Writ Petition No.24556 of 1999

Dated: 31-07-2007

Between:

1. Tota Venkat Reddy, s/o Malla Reddyd and 3 others.

... Petitioners

and

1. The Special Deputy Collector,
   Land Acquisition, (General),
   Hyderabad and another.

... Respondents

ORDER:

This writ petition is filed seeking a *mandamus* to declare the award, bearing R.O.C.No.B.1/59/92, dated 12-02-1999 passed by respondent No.1 – Special Deputy Collector, referring the matter to a competent Civil Court under Section 30 of the Land Acquisition Act, 1894 (for short, the Act'),
as arbitrary and violative of Articles 14 and 300-A of the Constitution of India.

2. Facts, in brief, are: A notification under Section 4(1) of the Act was issued on 29-12-1977 proposing to acquire an extent of Ac.0-25 gts. in

S.No.279/2 of Alwal village, Ranga Reddy District owned by petitioners. Thereafter, possession was taken on 08-02-1978 and a pipeline was also laid. Though possession was taken and an award was passed on 25-03-1982 in respect of the other lands, no award was passed insofar as the lands in question and hence, petitioners filed W.P.No.16714 of 1991 seeking a direction to respondents to re-notify the land and pay compensation or in the alternative to restore the possession of the lands in question to them. In the said writ petition, a counter affidavit was filed wherein it is admitted that petitioners are the pattadars of the lands in question. The said writ petition was disposed of on 30-11-1995 with a direction to respondents to pass an award in respect of the lands belonging to petitioners within a period of three months from the date of receipt of a copy of the order. Despite the said direction, no award was passed and hence, petitioners filed W.P.No.19605 of 1998 for implementation of the order dated 30-11-1995 passed in W.P.No.16714 of 1991. During the pendency of the said writ petition, an award was passed on 12-02-1999 in respect of the lands in question and in the said award, the Land Acquisition Officer referred the matter to a competent Civil Court under Section 30 of the Act stating that the Commissioner, Alwal Municipality and the Special Officer, Urban Land Ceiling, Hyderabad may have rival claims. Subsequently, W.P.No.19605 of 1998 came up for hearing and as the limited prayer in that writ petition is for a direction to respondents to pass an award and an award was already passed on 12-02-1999, the said writ petition was dismissed on 30-10-1999 giving liberty to petitioners to challenge the reference made under Section 30 of the Act in a separate proceedings, if they so choose. Hence, petitioners filed the present writ petition.

3. Heard learned counsel for the parties.

4. The award impugned was passed on 12-02-1999 fixing certain

amount of compensation. In the said award, Land Acquisition Officer has also observed as follows---

> "Since the pipe line in Sy.No.279/2 was laid all along with the existing road from Lothukunta to Venkatapuram of Alwal village and the road was evidently existing prior to the laying of the pipeline as seen from the layout prepared by Sri T. Venkat Reddy making his agricultural lands into plots and as per the layout plan furnished by the Alwal Municipality it is obvious that the layout plan submitted by the claimant was approved by the Gram Panchayat Alwal in the year 1968
> (i.e.29-6-68). Thus it is clear that at the time of notification and laying the pipeline i.e. in the year 1978 the road was in existence.
>
> In view of the directions of the Collector, Ranga Reddy District issued vide reference No.E2/6906/96 dt.27-11-96 and also in view of the Government Pleader's opinion dt.5-1-99, I order to pass the Award under Section 30 of the Land Acquisition Act and to deposit the determined compensation amount as worked out below in the competent Civil Court while impleading the following as interested persons to Award proceedings.
>
> 1. Commissioner of Alwal Municipality.
> 2.Special Officer & Competent Authority, Urban Land Ceiling, Hyd.
> 3. Smt. T. Lakshmamma, w/o late T. Malla Reddy.
> 4. Sri T. Venkat Reddy, s/o late T. Malla Reddy.
> 5. Sri T. Lakshma Reddy, s/o late T. Malla Reddy.
> 6. Sri T. Srinivas Reddy, s/o late T. Malla Reddy.
> 7. Sri T.Ram Chandra Reddy, s/o late T. Malla Reddy."

5. In the light of the stand taken by Special Deputy Collector, Land Acquisition, (General) in the earlier round of litigation that the land in question is only a patta land and no portion of the land under acquisition has been divided from the patta land for the roads, the impugned award passed by the very same officer referring the matter to a Civil Court under Section 30 of the Act is not warranted. Originally thinking that there was a cart-track in the lands proposed to be acquired, a withdrawal proposal was also made to the District Collector by the Land Acquisition Officer on 22-10-1983 and the District Collector after considering the matter directed the Special Deputy Collector – Land Acquisition Officer to conduct re-enquiry into the matter and it was ultimately found that it is only a patta land belong

to petitioners and no part of the cart-track is in existence. In fact, the Special Deputy Collector referred the matter to the Tahasildar, Vallabhnagar Taluk and as per the report of the Tahasildar,

the lands in Sy.Nos.279, 280, 281 and 282 were recorded as patta lands in the village records and the Pattadars are in possession of the said lands and no portion of the lands under acquisition has been divided from the patta lands for the roads as reported by the former Patwari of Alwal. In fact, on the basis of the said report only, the Special Deputy Collector filed a counter affidavit in W.P.No.16714 of 1991. When the Special Deputy Collector is in agreement that the land in question is only a patta land and no road is laid in the said patta land, it is not known as to what was the necessity for the Land Acquisition Officer again to give a finding that a road is in existence and referring the matter to the Civil Court under Section 30 of the Act. May be the persons change,

but the office of the Special Deputy Collector (Land Acquisition) (General) is the same and the Special Deputy Collector ought not to have referred the matter to the Civil Court under Section 30 of the Act, as if there is a dispute.

6. Accordingly, the writ petition is allowed and respondents are directed to work out the amount of compensation that is to be paid in accordance with law and pay the said amount of compensation to petitioners forthwith. No costs.

JUSTICE GOPALAKRISHNA TAMADA

Dt.31-07-2007
GLV